

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CARL EUGENE GOWDY, JR.,

Plaintiff,

v.

A. CRUZ, et al.,

Defendants.

No. 1:22-cv-00202-ADA-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
PLAINTIFF'S FIRST AMENDED
COMPLAINT WITHOUT LEAVE TO
AMEND

(ECF No. 16)

Plaintiff Carl Eugene Gowdy, Jr. is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 26, 2022, the Magistrate Judge screened Plaintiff's first amended complaint and issued findings and recommendations recommending dismissal of this action, without further leave to amend, for failure to state a claim and for lack of supplemental jurisdiction. (ECF No. 16.) On August 17, 2022, Plaintiff filed objections to the findings and recommendations. (ECF No. 17.)¹

In his objections, Plaintiff reiterates that he "has been in danger of being physically

¹ On October 27, 2022, Plaintiff filed a "Notice of Default of Judgment" directed to the named defendants in Plaintiff's complaint. (ECF No. 19.) Plaintiff asserts that Defendants have failed to answer the complaint, and requests default judgment. (*Id.*) Defendants, however, have not been served with the summons and complaint. Therefore, Defendants are not in default and the Court will deny Plaintiff's request.

1 harmed” without providing the type of factual details the Magistrate Judge noted were lacking in
2 the complaint. (*Id.* at 1.) He also emphasizes the complete lack of evidence to support the
3 allegations against him. (*Id.* at 1–3.) As the Magistrate Judge discussed in the findings and
4 recommendations, Plaintiff has failed to demonstrate facts sufficient to bring a defamation claim
5 pursuant to § 1983. (*See* ECF No. 16 at 4–6.) The Court does not pass on the sufficiency of any
6 state law defamation claim Plaintiff may have. Such an inquiry is for a state court to address in
7 the first instance.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, including Plaintiff's objections, the Court finds the findings and recommendations to be supported by the record and proper analysis.

12 || Accordingly,

IT IS SO ORDERED.

Dated: February 14, 2023

UNITED STATES DISTRICT JUDGE